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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,414	12/28/2000	Michael Andrew Cook	03-LO-6803	6941

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CUEVAS, PEDRO J

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2834

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/750,414	COOK ET AL.	
	Examiner Pedro J. Cuevas	Art Unit 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 June 2002.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- 4) Claim(s) 6-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 6-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 03 June 2002 is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of invention of Group II, claims 6-18 in Paper No. 10 is acknowledged. The traversal is on the ground(s) that according to the applicant, the inventions of Groups I and II are clearly related, and that a thorough search and examination of either Group would be relevant to the examination of the other Group and would not be a serious burden to the examiner. This is not found persuasive because as explained in the previous Office Action, these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search required for Group I is not required for Group II.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 10.

Drawings

3. The corrected or substitute drawings were received on June 3, 2002. These drawing corrections are acceptable.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 and 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,113,104 to Blaettner et al. in view of JP Patent No. 62-018939 to Yuji.

Blaettner et al. discloses motor comprising:

a motor housing (22) comprising an end cap and a can, said end cap connected to said can and comprising an opening, said can comprising an opening;

a stator assembly (24) positioned within said motor housing and comprising a stator core and a stator bore extending therethrough, said stator core comprising a plurality of stator windings (magnets in this particular case, since in the patent the motor is used as a generator);

a rotor assembly (26) positioned within said stator bore, said rotor assembly comprising a rotor core, a rotor bore disposed through said rotor core, and a rotor shaft extending through said rotor bore, said end cap opening, and said can opening; and

a bearing (88) positioned on said rotor shaft adjacent said end cap.

However, it fails to disclose a washer comprising a first layer, a second layer and a third layer, said second layer different from said first and third layers, said washer positioned on said rotor shaft adjacent said bearing and configured to dampen vibrations induced from said rotor shaft.

Yuji teaches the construction of a washer (9) comprising a first layer (9a), a second layer (9b) and a third layer (9c), said second layer different from said first and third layers for the purpose of dampening vibrations induced from a rotor shaft.

It would have been obvious to one skilled in the art at the time the invention was made to use the washer disclosed by Yuji on the motor disclosed by Blaettner et al. for the purpose of dampening vibrations induced from a rotor shaft.

6. With regards to claim 9, Yuji discloses a washer wherein said first, second, and third layers are bonded together as shown in Figure 3.

7. Claims 7 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,113,104 to Blaettner et al. in view of JP Patent No. 62-018939 to Yuji as applied to claims 6 and 8-13 above, and further in view of U.S. Patent No. 4,340,830 to Hoyer-Ellefsen.

Blaettner et al. in view of Yuji discloses a motor as described above.

However, it fails to disclose a motor further comprising a snap ring affixed to said shaft, said washer adjacent said snap ring.

Hoyer-Ellefsen teaches the use of a snap ring (76) affixed to a shaft for the purpose of exerting a controlled pressure on the bearing members (58, 60) by the resilient washer (72) that permits free rotation of rotor (48) and shaft (50).

It would have been obvious to one skilled in the art at the time the invention was made to use the snap ring disclosed by Hoyer-Ellefsen on the motor disclosed by Blaettner et al. in view of Yuji for the purpose of exerting a controlled pressure on the bearing members (58, 60) by the resilient washer (72) that permits free rotation of rotor (48) and shaft (50).

8. With regards to claim 16, Blaettner et al. in view of Yuji discloses a washer assembly wherein said damping washer second layer is located between said damping washer first and third layers, said washer assembly positioned on the rotor shaft adjacent the bearing as shown in Figure 1.

9. With regards to claims 8, 10-13, 15, 17 and 18, Yuji discloses a washer assembly as claimed except for the combination of materials to construct the washer as claimed.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to select the materials in the claims to construct the washer since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Response to Arguments

10. Applicant's arguments filed July 3, 2002 have been fully considered but they are not persuasive.

11. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the washer disclosed by Yuji is combined with the teachings of Blaettner et al. for the purpose of providing a three-layer washer for the dynamoelectric machine.

12. In response to applicant's argument that the claimed bearing is used to dampen vibrations, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use,

then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

13. In response to applicant's arguments against the references individually, one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Application/Control Number: 09/750,414
Art Unit: 2834

Page 7

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro J. Cuevas whose telephone number is (703) 308-4904. The examiner can normally be reached on M-F from 8:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Néstor R. Ramírez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Pedro J. Cuevas
August 25, 2002


NESTOR RAMIREZ
SUPERVISORY PATENT EXAMINER
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